

24<sup>TH</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 790-732

DIVISION "L"

625 LABARRE RD., LLC AND JIM HALL

VERSUS

THE PARISH OF JEFFERSON AND THE JEFFERSON PARISH COUNCIL

FILED: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

**PETITION FOR TEMPORARY RESTRAINING ORDER,**  
**PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION**

NOW INTO COURT, through undersigned counsel, comes petitioners, 625 Labarre Rd., LLC, a domestic limited liability corporation domiciled in the Parish of Jefferson and Jim Hall, a person of full age of majority and a citizen of the State of Louisiana and who, pursuant to Louisiana Code of Civil Procedure Article 3601 etc. seq., respectfully prays for injunctive relief including preliminary injunction and issuance of a Temporary Restraining Order alleging:

1.

Made defendant is the Parish of Jefferson through the Jefferson Parish Council, a political subdivision of the State of Louisiana subjected to be sued pursuant to the laws thereof.

2.

Petitioner, 625 Labarre Rd., LLC is the record owner of Lot 5A, Elvis Court Subdivision on the Eastbank of Jefferson Parish and Petitioner Jim Hall is a member of said LLC.

3.

On or about October 26, 2017, petitioner applied for Subdivision and Rezoning of what was then designated Lots 1, 2, 3, 4 and 5, Elvis Court Subdivision, Jefferson Parish, Louisiana, requesting that the lots be redesignated as one lot, Lot 5A, and that that said lot be re-zoned from Zone R-1A, single family residential district, and C-1, neighborhood commercial district, to a zoning designation of R-3, multiple family residential district.

4.

Pursuant to said application, petitioner had appropriate surveys of the lots performed;

requested and received a rendering of the proposed building; and performed a research project – researching property tax, sales tax, traffic and other economic impacts of the proposed condominium development.

5.

In addition, and prior to any public hearing, petitioners met with members of the Jefferson Parish Planning Department and followed their instructions to notify via mail all individuals and businesses whose property was located within 300 feet of the proposed change. Beyond their instructions, petitioner had 24 individuals sign a petition stating that they were in favor of the project along with four (4) letters, one of which is from the Metairie Road Business Association. See Exhibit #1.

6.

Upon contact it was explained that petitioners were planning to build a condominium, petitioners answered any questions that may have been posed, and displayed the artist rendering of the building. See Exhibit #2. The artist rendering of the proposed condominium showed the project would be six (6) stories and is the same artist rendering that is displayed on the current construction site. The representative requested the support of the surrounding property holders. Additionally, prior to any public hearing, petitioners' representatives met with representatives of the Planning and Advisory Board at the site and detailed the project to them.

7.

The Planning Director of Jefferson Parish caused the proposed subdivision change and re-zoning to be advertised as prescribed by law and held a Public Hearing, which occurred on December 21, 2017.

8.

Prior to said Hearing, petitioner distributed to each member of the Planning and Advisory Board a packet consisting of a detailed explanation of the project proposal, appropriate surveys, photographs of current property building and an artist rendering of the proposed six-story development, along with the research performed by Wade Ragas of Real Property Associates, Inc., concerning the property tax, sales tax, traffic and other economic impacts of the area. See Exhibit #3.

9.

The Jefferson Parish Planning Department recommended the zoning change that petitioner proposed to the Planning and Advisory Board of the Parish of Jefferson, who voted unanimously to approve the subdivision change and re-zoning change. Prior to the Jefferson Parish Council meeting that was held on January 10, 2018, the petitioners met with and handed out packets to the Council members which contained a rendering of the building and other planned information.

10.

Thereafter, the Jefferson Parish Council, on January 10, 2018, took up consideration of Ordinance #25478, the Subdivision Plat Change, and Ordinance #25479, the re-zoning change, and considered same for approval.

11.

At said meeting of the Jefferson Parish Council the Ordinances were unanimously approved by the Jefferson Parish Council on January 10, 2018. See Exhibit #4. Just before the Ordinances were unanimously approved, Councilwoman Jennifer Van Vrancken stated:

“I do want to commend Mr. Hall. He really reached out to the community, to the neighbors, walked and knocked doors, talked to people. So, I appreciate the legwork you put in so that people are excited with you about what’s to come at that corner. So, I move for approval. ”

See <https://media.swagit.com/podcasts/2018/01/10/01102018-621.360.mp4>.

12.

Subsequent to approval of the subdivision change and re-zoning, petitioners undertook the following work:

- a. Performed asbestos testing;
- b. Recorded site plan with Jefferson Parish Clerk of Court;
- c. Capped off sewer pipes as per demolition permit requirements;
- d. Had site plan and report done on all trees as per the demolition permit requirements;
- e. Hired individuals to remove trees off power lines;
- f. Filed for and received tree removal permit from Jefferson Parish;

- g. Applied for and received a demolition permit from Jefferson Parish;
- h. Did the required DEQ testing for removal of asbestos and removed the asbestos;
- i. Demolished the three-story wooded structure and mason brick house on the lot and removed truckloads of demolished materials;
- j. Put fill and leveled the lots to grade;
- k. Removed trees from side of property line;
- l. Hired surveyor to workout drain line issues with Jefferson Parish;
- m. Repaired a fence in the back and side of the property;
- n. Removed the trees on the back, right side of the property including stumps and filling stump holes with sand;
- o. Performed required soil testing;
- p. And other actions and expenses.

**13.**

By relying on the Jefferson Parish Council's passing of the Ordinances, petitioners have incurred expenses for architectural services, civil engineering services, mechanical engineering services, electrical engineering services, advertisement, labor, etc., totaling over \$250,000.00. Any zoning change to 625 N. Labarre Road would greatly reduce the value of the property, which is presently valued at over \$1,000,000.00.

**14.**

Approximately eleven months after the approval of the Ordinances and after spending over \$250,000.00 on the project in reliance on the January 10, 2018 zoning change, the Parish of Jefferson, through the Jefferson Parish Council, indicated that the Ordinances will be reconsidered and revoked at the next Parish Council meeting, currently scheduled for January 16, 2019.

**15.**

The exact cause for this reconsideration is disputed but appears to be a result of residents in the area now, at this late date, expressing concerns about the height of the development.

16.

Petitioner believes and alleges that the opposition is as a result of partial misinformation disseminated by and through an internal staff report of the Planning Department, Parish of Jefferson, wherein the report describes the development as a three-story, fifteen-unit condominium building, with parking on the first floor, as opposed to a six-story building, which has been proposed from the beginning. See staff report of Planning Department attached hereto as Exhibit #5.

17.

The proposed six-story building is within the height restrictions dictated by the current re-zoning as R3. The maximum height restriction is and has always been sixty (60) feet.

18.

Should the Jefferson Parish Council proceed to revoke the re-zoning, petitioners will suffer irreparable harm, injury, loss and damage as a result of the action to revoke the subject ordinances. Petitioners have incurred significant expenses due to their reliance upon the legal actions of the Planning and Advisory Board and the Jefferson Parish Council in their subdivision and re-zoning ordinances passed in January of 2018.

19.

Petitioners have incurred expenses as itemized above in excess of \$250,000.00 which will be lost should the subject ordinances be revoked.

20.

Petitioners have in no way caused or contributed to any confusion or made any misrepresentations concerning the project. In fact, Councilwoman Van Vrancken stated at the December 19, 2018 Jefferson Parish Council meeting the following concerning the misrepresentation of the project as a three-story building:

“Proper notice was given. The residents within a 300 radial foot area were provided certified mail copies of the notices of our processes. In addition, the sign that goes up on properties to let you know that some zoning or some division issue is being considered that did go up properly...”

See <https://media.swagit.com/podcasts/2018/12/19/12192018-1020.360.mp4>.

21.

Continuing to discuss the misrepresentation of the building's height, Councilwoman Van Vrancken then later stated at the same December 19, 2018 meeting:

"...What I did find concerning was the document Mr. Hall is referencing was our internal planning report and recommendation. It referenced a three-story building, so, however that got conveyed, it was conveyed in that document that it was three stories. So, if residents had called our planning department for more information, they would have been given the information that it was to be a three-story condominium building."

See <https://media.swagit.com/podcasts/2018/12/19/12192018-1020.360.mp4>.

22.

By Councilwoman Van Vrancken's own admission, the council's internal planning report and recommendation, which was not prepared by Petitioners, was partially incorrect as to how many stories the building would have, and the planning department itself is to blame for the incorrect and misleading information given to residents who contacted the planning department. Even though the internal planning report misstated the project as a three-story building, it correctly listed the maximum height as sixty (60) feet as shown on Exhibit 5.

23.

Petitioners believe they are entitled to a temporary restraining order and a preliminary and permanent injunction prohibiting the Parish of Jefferson from repealing the ordinances in question due to their own failure to provide accurate information to residents contacting the planning department and that unless a temporary restraining order is issued and a date set for a hearing on petitioners' request for preliminary and permanent injunction, petitioner will suffer irreparable injury, loss and damage.

24.

The proposed project, as set before the Planning and Advisory Board in December of 2017, and as approved by the Parish Council in January 2018, has not changed in any fashion and remains the same as a R3 not to exceed sixty (60) feet. Any repeal of the ordinances is unjustified at this time in view of the fact that all public notices were satisfied as required by law and the changes were approved.

25.

Once these ordinances were properly voted and passed by the Jefferson Parish Council, petitioners acquired constitutionally protected vested property rights in these ordinances. Any repeal of these ordinances amounts to an illegal taking of petitioners' vested property rights and thus a violation of Louisiana and U.S. Constitutional laws and protection.

26.

Any acts by the Jefferson Parish Council revoking or changing these valid Ordinances Numbers 25478 and 25479 would be an act that is arbitrary and capricious.

27.

Petitioner alleges that any repeal of the ordinances amounts to an illegal taking of petitioners' property and thus a violation of the Louisiana and U.S. Constitutions.

**WHEREFORE**, petitioners pray that an immediate temporary restraining order be issued against defendant from taking any action toward repealing Jefferson Parish Ordinances 25478 and 25479.

Petitioners further pray that this Court issue a Rule to Show Cause directing the defendant to show cause not less than two nor more than ten days after service of this petition on defendants, at the date, time and location set by this Court why a preliminary writ of injunction should not be issued herein prohibiting any repeal of said ordinances.

Petitioners further pray that in due course the court issue an order granting a final permanent injunction in the form and substance of the preliminary injunction.

Petitioners further pray that this court grant any further relief that this Court finds that justice may require or is otherwise equitable.

Respectfully Submitted:  
**JIM S. HALL & ASSOCIATES**



**JIM S. HALL #21644**  
**MATTHEW MORELAND #24567**  
**JENNIFER CROSE #32116**  
800 N. Causeway Blvd., #100  
Metairie, LA 70001  
Telephone: 504-832-3000  
Telephone: 504-756-4840  
Facsimile: 504-832-1799

**PLEASE SERVE**  
**The Parish of Jefferson**  
Through the Office of the Parish Attorney  
Jeremy Dwyer  
200 Derbigny Street  
Suite 5200  
Gretna, Louisiana 70053

24<sup>TH</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

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THE PARISH OF JEFFERSON AND THE JEFFERSON PARISH COUNCIL

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DEPUTY CLERK

**TEMPORARY RESTRAINING ORDER AND RULE TO SHOW CAUSE**

TO: Jefferson Parish Council

Through the Jefferson Parish Attorney Jeremy Dwyer

You are hereby ordered, restrained, enjoined and prohibited from taking any action towards the repeal or suspension of ordinances 25478 and 25479 until such time as a hearing on the preliminary and permanent injunctions can be had.

You are hereby ordered, directed and commanded to show cause in this Court on the 14<sup>th</sup> day of January, 2019 @ 9:30am CS why there should not be judgment in favor of the petitioners 625 Labarre Rd, LLC and Jim Hall ordering the issuance of preliminary and permanent injunctions prohibiting any rescission or repeal of ordinances 25478 and 25479.

Witness the honorable judges this Court the 27<sup>th</sup> day of Dec,  
2018

  
CLERK OF COURT

24<sup>TH</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

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DEPUTY CLERK

ORDER

The foregoing petition considered and the Court being satisfied that the petitioners, 625 Labarre Rd., LLC and Jim S. Hall, will suffer immediate, irreparable injury before notice can be served and a hearing had on petitioners' application for preliminary injunction:

It is ordered that a Temporary Restraining Order be issued after petitioners posting security in the amount of \$ 5,000<sup>00</sup> dollars, restraining the defendant, Parish of Jefferson, through the Jefferson Parish Council, from taking any further action regarding ordinances 25478 and 25479 including, but not limited to, the repeal or suspension of said ordinances.

It is further ordered that the defendants, the Parish of Jefferson, through the Jefferson Parish Council, appear and show cause on the 14<sup>th</sup> day of January, 2019 at 9:30 o'clock (a.m.)/p.m. why there should not be judgment in favor or the petitioners 625 Labarre Rd., LLC and Jim Hall and against defendants Parish of Jefferson, through the Jefferson Parish Council as follows:

- a. Ordering the issuance of a Preliminary Writ of Injunction in the form of substance of the Temporary Restraining Order;
- b. Ordering the issuance of Permanent Writs of Injunction in the form of substance

of the Preliminary Injunction;

c. Ordering defendants to pay attorney fees and expenses incurred by petitioner in this matter.

Gretna, Louisiana at 12 o'clock a.m./p.m. this 27<sup>th</sup> day of  
Dec. 20 18

  
DISTRICT JUDGE  
JUDGE LEE V. FAULKNER, JR.

**PLEASE SERVE**

**The Parish of Jefferson**

Through the Office of the Parish Attorney

Jeremy Dwyer

200 Derbigny Street

Suite 5200

Gretna, Louisiana 70053